

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN JIM SHOCKLEY**, on March 2, 2001 at 8:00 A.M., in Room 137 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Jim Shockley, Chairman (R)  
Rep. Paul Clark, Vice Chairman (D)  
Rep. Jeff Laszloffy, Vice Chairman (R)  
Rep. Darrel Adams (R)  
Rep. Gilda Clancy (R)  
Rep. Aubyn A. Curtiss (R)  
Rep. Bill Eggers (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Christopher Harris (D)  
Rep. Joan Hurdle (D)  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. Ken Peterson (R)  
Rep. Diane Rice (R)  
Rep. Bill Thomas (R)  
Rep. Merlin Wolery (R)  
Rep. Cindy Younkin (R)

**Members Excused:** Rep. Linda Holden (R)  
Rep. Jeff Mangan (D)

**Members Absent:** None.

**Staff Present:** John MacMaster, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: **SB 85 - 2-19-01**  
**SB 204 - 2-19-01**  
**SB 217 - 2-19-01**

Executive Action: **SB 26 - Table**  
**SB 217 - Table**

**HEARING ON SB 85**

**Sponsor:** Sen. Jon Tester, SD 45, Big Sandy said this Bill would expand the jury pool to Montana drivers' license holders and Montana ID holders. It offers the Department of Justice the opportunity to give the drivers' licenses and ID to the local entities or Clerk and Recorders to draw for juries.

There are a lot of people who don't vote because they don't want to serve on jury duty. They don't want to have their name in the pool. He personally thinks it's a civic duty to vote.

**Proponents:** Bob Brown, Secretary of State.

Al Smith, Montana Trial Lawyers' Association.

**Opponents:** Marty Lambert, Gallatin County Attorney.

Chris Miller, Powell County Attorney.

Brenda Nordlund, Department of Justice

**EXHIBIT**(juh48a01) `

Nancy Sweeney, Lewis and Clark County Clerk of District Court.

Rep. Younkin stated, after Chairman Shockley ruled Ms. Sweeney an Opponent and not an Informational Witness, she would like the record to reflect the County Clerks of Court are, in fact, Informational Witnesses. Chairman Shockley said his opinion is, they are opponents because what they are saying has negative implications that require amendments to the Bill.

**Questions from Committee Members and Responses:** Reps. Gallus, Laszloffy, Harris, Curtiss, Hurdle, Wolery, Clark, Gutsche, Peterson, Adams, Shockley, Noennig to Senator Tester, Ms. Sweeney, Mr. Lambert; Mr. Throssell, Montana Association of Clerk and Recorders.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 30.1}

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 27.3}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 15.5}

**Closing by Sponsor:** Sen. Tester said the intent of this Bill is to expand the jury pool. Any problems that might arise can be workable through managing. The people who are voting are becoming more elderly and if we are going to have a jury of our peers, the Bill does offer more reasonableness, accuracy and better opportunity for a fair trial.

#### **HEARING ON SB 204**

**Sponsor:** Senator John Cobb, SD 25, Augusta said this Bill is another "tweaking" of the restitution laws. This Bill allows another option to collect restitution. It allows that once a court orders restitution that the restitution order can be collected in a civil proceeding, which means the victim can garnish the wages or have a sheriff's sale, and not have to wait to go through any other proceedings. Now when the court orders restitution, the offender is supposed to pay it and the court can order garnishment, sell property and the parole and probation of the prison can try to collect restitution. The court can also order the offender to go back to jail but that usually doesn't happen.

**Proponents:** Ellen Bush, Victims' Information Specialist for Department of Corrections and the Victims' Advisory Council.  
**EXHIBIT** (juh48a02)

**Opponents:** None

**Questions from Committee Members and Responses:** Reps. Peterson, Noennig to Senator Cobb.

*{Tape : 2; Side : A; Approx. Time Counter : 15.5 - 29.8}*

**Closing by Sponsor:** Senator Cobb closed the Hearing on SB 204.

#### **HEARING ON SB 217**

**Sponsor:** Senator John Cobb, SD 25, Augusta said this Bill clarifies that the defendant charged with a misdemeanor, for which the only possible penalty is a fine, may pay the fine by mailing or otherwise deliver the payment to the court. If there is a minimum/maximum fine that the defendant and the court can agree on, the fine can be mailed. This would be mostly traffic violations where there is no jail time, local government or municipality penalties. It is an option that the court can accept payment and it will constitute a plea of guilty.

Proponents: None

Opponents: None

Questions from Committee Members and Responses: None

Closing by Sponsor: Senator Cobb closed the Hearing on SB 217.

EXECUTIVE ACTION ON SB 217

Motion: REP. YOUNKIN moved that SB 217 BE CONCURRED IN. #1

Discussion: Reps. Younkin, Shockley, Peterson, Laszloffy, Noennig, Newman, Mr. MacMaster.

Motion/Vote: REP. YOUNKIN moved that SB 217 BE AMENDED, conceptually, to clarify lines 18 and 19. #2 Motion carried 9-8 with Reps. Clark, Clancy, Eggers, Gallus, Gutsche, Hurdle, Newman and Thomas voting no.

Substitute Motion: REP. GUTSCHE made a substitute motion that SB 217 BE AMENDED, line 18 language. #3 Motion carried unanimously 17-0.

Motion: REP. CLARK moved that SB 217 BE AMENDED to remove line 17 from the Bill. #4

Discussion: Reps. Clark, Laszloffy, Noennig, Newman, Gallus, Peterson, Adams.

Substitute Motion: REP. PETERSON made a substitute motion that SB 217 BE AMENDED "nolo contendere" instead of "guilty" #5 Motion failed 8-10 with Reps. Clark, Curtiss, Eggers, Gallus, Gutsche, Harris, Hurdle, Noennig, Rice and Younkin voting no.

*{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 29.7}*

Motion/Vote: REP. HURDLE moved that SB 217 BE TABLED. #6 Motion carried 12-6 with Reps. Shockley, Gallus, Gutsche, Thomas, Wolery and Younkin voting no.

EXECUTIVE ACTION ON SB 26

Motion: REP. YOUNKIN moved that SB 26 BE CONCURRED IN. #7

Motion: REP. YOUNKIN moved that SB 26 BE AMENDED. #8  
**EXHIBIT**(juh48a03)

Discussion: Reps. Younkin, Noennig, Clancy, Laszloffy.

Motion: REP. GALLUS moved that SB 26 BE TABLED. #9 Motion carried  
14-6 with Reps. Laszloffy, Clancy, Holden, Rice, Wolery and  
Younkin voting no.

*{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 15.6}*

**ADJOURNMENT**

Adjournment: 10:20 A.M.

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REP. JIM SHOCKLEY, Chairman

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MARY LOU SCHMITZ, Secretary

JS/MS

**EXHIBIT** (juh48aad)